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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

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| In Re. Glenn Howard Dillard, Debtor. | MOTION FOR PROTECTIVE ORDER Case No. 21-23041 Chapter 7 Hon. Joel T. Marker Adversary Proceeding No. 22-02002 |
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Pursuant to Fed. R. Civ. P. Rule 45(d)(1) and (3), Fed. R. Bankr. P. 9016, and 11 U.S.C. § 107(c)(1), third parties Howard Dillard, Donna Dillard, and Aileen Heacock (“Third Parties”) request that the court issue a protective order to protect the subpoenaed parties. The Third Parties request the Court require that any documents produced during the course of this action to be designated as containing confidential information and for attorney’s eyes only. Additionally, The Third Parties request the court limit the production of documents to those reasonably calculated to lead to admissible evidence regarding the assets of The Third Parties.

PRECISE RELIEF SOUGHT AND THE SPECIFIC GROUNDS FOR THE MOTION

Since the time the Third Parties engaged counsel, the Third Parties have discussed with the U.S. Trustees Office (“UST”) and have requested a protective order to protect the information sought under the UST subpoenas on the Third Parties. Within the last approximate

two weeks the UST and counsel have again had an extensive discussion regarding the protective order but the UST has declined to agree to the entry of a protective order, therefore the Third Parties file this motion. The Third Parties now seek from the Court protection of confidential financial and personal information and such a limit on discovery to only what is reasonably calculated to lead to admissible evidence.

ARGUMENT

Fed. R. Civ. Pro. 45(d)(1) and (3) imposes a duty on Plaintiff and requires the Court to impose an appropriate order in this case where the Plaintiff attempts to cause an undue burden or expense or requests disclosures of protected matters on a person subject to a subpoena.

Also, Bankruptcy Code § 107(c)(1) provides that the court may protect an individual from disclosing information that “would create an undue risk of identity theft or other unlawful injury to the individual or the individual’s property.”

A Plaintiff abuses the judicial process when they base “extensive discovery requests upon conclusory allegations in the hope of finding the necessary evidence of misconduct.” *Munoz v. St. Mary-Corwin Hosp.*, 221 F.3d 1160, 1169 (10th Cir. 2000) (describing such a request as a “fishing expedition”).

The Third Parties request protection from the sharing of any confidential financial and personal information and from discovery requests without a legitimate basis. Without this protection, the discovery requests create an undue risk of identity theft or other unlawful injury to The Third Parties.

CONCLUSION

For these reasons, The Third Parties Request the Court to issue a protective order as set forth herein to prohibit the sharing of confidential financial and personal information and limit

discovery only to requests for financial and personal information that are reasonably calculated to lead to admissible evidence.

DATED this 20th day of March, 2023

/s/ Russell S. Walker
Counsel for Third Parties

CERTIFICATE OF SERVICE BY ELECTRONIC NOTICE (CM/ECF)

I hereby certify that on March 20, 2023, I electronically filed the foregoing with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users.

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